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THE ART OF NEGOTIATION

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Successful negotiations are more likely to occur if a suitable climate exists. Five general elements influence this climate: (1) The history of working relationships among teachers, administrators, and board of education members, (2) the current status of these relationships, (3) the pressures from emerging teacher organizational changes, (4) legal constraints, and (5) the predominant personal and philosophical biases of teachers, administrators, and board members. Although board members, superintendents, and staff members differ in their attitudes about negotiations, each must observe the following principles for negotiations to succeed: Manifest good faith, hold the welfare of the students above all else, share authority, recognize and respect the nature of the negotiation process, and exercise patience as negotiations proceed. (HW)

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THE ART OF NEGOTIATION

Both certitude and doubt make it difficult to establish that there is truly an art of negotiation. The administrator who has experienced relative success in negotiating with his staff may be quite willing to speak with certitude about the techniques and procedures which will work in this new process in educational decision-making.

The administrator, however, who has been buffeted in the cross-currents of unsuccessful negotiation and has been caught up in the vortex of impasse, sanctions, and strikes usually is more hesitant to suggest formula for negotiation. It is necessary, therefore, to exercise both caution and humility in suggesting negotiation guidelines. The comments that follow are offered in this spirit.

Climate for
Negotiation

Successful negotiation is more likely to occur if certain conditions already prevail, and if they do not exist, it may be well to foster their development. In other words, the climate for negotiation

should be carefully assessed as a prior condition for entering into formalized give-and-take dialogue with staff. The following five questions are posed to

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illustrate how this assessment might be made.

1. What have been the previous working relationships among teachers, administrators, and board of education members? Certainly the status of past teacher-administrator-board relationships is one of the conditions that bear consideration. For example, suppose the school system has had a long and successful history of amiable and productive working relationships. Teachers who have, through committees of all kinds, been actively and responsibly involved in decision-making not only in salary determination and in so-called welfare matters, but also in broader educational determinations, are very likely to feel that administrators do value their opinions--that teachers are equal in status to administrators. In situations such as these, the possibility of success is more greatly assured.

If, on the other hand, over the years administrative prerogative has been jealously guarded and teacher involvement has been exceedingly nominal, attitudes toward negotiation may very well be characterized by skepticism, apprehension, or even antagonism.

Therefore, the history of teacher-administrator-board relations has an important bearing on the prognosis for success.

2. What is the current status of these relationships? A second consideration is the status of current working relationships. If the superintendent of schools and his administrative and supervisory staff regard teachers as comprising a component in the educational enterprise that is on a par in importance with principals and other administrators and supervisors insofar as decision-making is concerned then it is likely that the chances for effective negotiation will be more favorable. If the reverse prevails, the prospects for constructive peer-level give-and-take are likely to be far less promising.

Administrators who have utilized the services of teacher representatives in decision-making in a consistent and meaningful manner--and are currently doing so--do not fear collective negotiation. Frankly, they may welcome it.

3. What teacher organization pressures? A third question that may affect the chances for success in negotiation are the pressures which may be bearing upon the school system as the result of upsurging and emerging teacher organizational changes.

Organizational rivalry--where two groups exist--will influence the climate for negotiation. A shift in organizational purpose and program--where only one

group exists--will likewise have repercussions.

A shift from complacency to aggressive action by the teachers' organization will affect the points of view of administrators and board members. The fact is that, in many communities, the existence or absence of teacher militancy will have a major bearing upon professional negotiation.

4. Are there legal constraints to be considered? State statutes have a great deal to do with the way negotiation is conducted. Discuss negotiation with school administrators from states that have prescriptive state laws on the subject and you get a sharply different point of view than in those states that have no laws and see little need for any.

Laws that mandate procedures which have striking similarities to processes used in labor-management collective bargaining, will cause school administrators--especially superintendents--to cast themselves in roles somewhat like managers in business and industry.

This is a disturbing development to many superintendents and other administrators who deplore following in the footsteps of labor and management insofar as negotiation in education is concerned. They believe that following the labor-management model is not in the best interests of education.

5. What are the predominant personal and philosophical biases? A fifth and very important issue has to do with personal and philosophical biases of the teachers, administrators, and board members.

A resistive attitude on the part of administrators and board members usually results if they perceive negotiation as an unwarranted intrusion into the prerogatives of administration and dilution of the time-honored division of powers and functions of teachers and administrators.

Many administrators believe that negotiation is a divisive process and that it should be resisted. A hold-the-line strategy is imperative. Yielding to pressures to negotiate--rather than consult--on an ever-increasing number of subjects will only weaken the educational enterprise. The antidote for teacher militancy is firmness. Step-by-step yielding to teacher demands will lead ultimately to capitulation.

Other administrators do not share these apprehensions. They believe that the negotiation process is merely a normal outcome of the developmental changes which have been occurring in the teaching profession. They feel that there is ample reason for the advent of formalized negotiation. They believe that adamant administrative resistance is not only unproductive but, in the end, will be detrimental to education. They see good in negotiation because it brings

about overdue re-alignments and modifications in teacher-administrator-board relationships. Administrators and board members--say these individuals--should face up to the underlying causes of pressure to employ negotiation procedures. Necessary adjustments and accommodations should be made. More effective and useful rules and guidelines governing its conduct should be formulated.

Various shades of difference exist, however, between these two polar points of view toward negotiation.

Very frankly, my own point of view is that negotiation isn't going to break the teaching profession asunder. Administrative and supervisory prerogatives aren't going to be usurped so that they will diminish into nothing.

What is called for is leadership. Administrators are capable of working with teachers to formulate constructive negotiation procedures. Administrators should be considering the options that are still open and accept the fact that the negotiation process can be made to result in a strengthening of teacher-administrative-board relationships.

I've identified rather superficially five issues which will affect the way in which negotiation may take place. In part, these issues--and certainly others--offer clues which explain the way superintendents and other administrators may react toward teachers and other employees as they press for greater involvement

in negotiation.

No Monolithic
Approach to
Negotiation

It must be remembered that there is no monolithic approach to collective negotiation. As of the opening of school in September 1967, sixteen states had enacted laws mandating, authorizing, or making it permissive for school systems to engage in collective negotiation with teachers and other employees. The NEA Research Division reports that over 1600 agreements to engage in some form of collective negotiation had been entered into by teacher organizations and school systems as of the opening of the 1967-68 school year. This is a formidable number. However, it must be recognized that more than 60% of all the teachers in the country either are not covered by collective negotiation agreements or are engaged in teacher-administrator-board working relationships which are informal, voluntary, and participatory in shape and substance.

A very common viewpoint, on the part of many administrators, is that it is just a matter of time until formalized negotiation procedures will prevail in all school systems in all states. Whether this is what will occur is not certain.

There is a very sizable number of administrators who believe that collective negotiation in the formalized sense may not become the predominant pattern for

conducting teacher-administrative-board relationships. In fact, they strongly argue that there is a better alternative and that a disservice is being done many school systems by hastening the abandonment of non-adversary, voluntary, and cooperative procedures in favor of formalized negotiation.

In the interests of being responsive to the viewpoints of those who desire to retain as long as possible procedures which do not mandate an adversary from of decision-making, I'd like to suggest that there is a way to achieve meaningful staff involvement in decision-making without resorting to formalized negotiation, per se.

Cooperative
Administration

Chart #1 is designed to illustrate "around the table participation" as contrasted with "across the table negotiation".

Cooperative administration is predicated upon a belief that teachers and other staff members should be directly involved in a wide variety of educational determinations.

The most obvious form of this kind of participation is that in the area of salary determination and other matters of economic well-being.

Standing committees whose purpose has been and is to advise and consult with the superintendent and his staff are well accepted as a characteristic of cooperative administration.

Many ad hoc committees are formed to engage in curriculum development, instructional improvement, textbook selection, course of study formation, problem solving and personnel policy and procedure development.

Teacher associations can--and do--nominate or designate teachers to serve on these committees. The superintendent is able to designate administrators and supervisors on his staff to be the counterparts of teachers in these committees.

The essential decision-reaching process consists of presentation of proposals or ideas, a full and frank discussion of the issues, a lively give and take exchange of viewpoints, and the reaching of a joint decision or determination as to what seems the best solution of a problem or the most appropriate course of action commensurate with the limitations or constraints which bear upon an ultimate answer or decision.

This form of participation grants peer-level involvement. It permits organizational influence upon the administrative and board of education components. It avoids the sticky questions of who comprises the negotiating unit. It doesn't pit teacher against administrator. It does not introduce divisive elements which tend to break the teaching profession into separate power blocs

which strive for ascendancy. Yet, it is a viable process which is based upon the concept of deliberation and determination by equals.

Will teachers accept this approach, you ask. In some states, definitely not. That option has been erased. Only formalized negotiation will be acceptable. Yet, in hundreds of other instances cooperative administration is not only acceptable but preferable to formalized negotiation. Why then, say some administrators, abandon this approach prematurely. Why hasten the advent of collective negotiation by assuming that it is inevitable and by tooling up for it long before it is necessary.

Collective Negotiation

The other school of thought, and its adherents are growing in numbers, discounts the realism of voluntary participatory types of teacher involvement. They argue that it is too late, in most instances, to consider this as a realistic approach, primarily because teachers have found it wanting as a vehicle for responsible involvement in decision-making. Instead they find only formalized negotiation an acceptable process because it has more built-in safeguards which assure them responsible involvement.

Chart #2 indicates the characteristics of collective negotiation as a deci-

sion-making process. It is, as has been indicated earlier, basically an adversary process. There are two sides. It more nearly guarantees peer-level involvement for teachers. Proposals or demands are presented; counter proposals may be offered; arguments pro and con are given; data are presented to support points of view; concessions may be made; consensus or disagreement may follow; an agreement or contract may be signed or an impasse may result. Should the latter occur, ways to resolve it must be found.

The adversary principle need not make negotiation a negative process. It simply is a different method for making decisions. It may be new and unfamiliar. It does put teachers and administrators in new kinds of roles. If conducted badly, it can be disruptive; if carried out effectively it can accomplish both qualitative and quantitative gains not only for teachers but for school systems as well.

Considerations for the Board

Board members differ in their viewpoints and attitudes about negotiation. School systems have differing sizes, complexities and organizational structures. The status of staff morale and unity of professional goals vary considerably. The climate of readiness for formalized negotiation fluctuates from system to system. Despite these

differences, however, it is possible to make some generalizations about negotiation from the point of view of board members.

1. The welfare of children supersedes all other considerations. As the board considers the pros and cons of granting greater decision-making power to teachers, it must safeguard this imperative.
2. A philosophy of negotiation should be formulated, put in writing, and made the point of reference in guiding the board as it works with the teacher organization.
3. The board must decide what its role is to be in negotiations with teachers. It may have several options open to it:
 - (a) It can sit as a committee of the whole and negotiate as one of the parties.
 - (b) It may delegate to the superintendent, as its representative, the responsibility for conducting negotiation.
 - (c) It may employ legal counsel to speak for it with the superintendent functioning in a liaison role.
 - (d) It may use variations of all these approaches.
4. The board will have to decide which teacher organization to recognize

for negotiation purposes. Whether this shall be done by conducting an election or by some method of certification of membership must be worked out. A decision must be made as to whether or not exclusive negotiation recognition will be given the dominant teacher organization.

5. The rights of representation and status of principals and other administrators and supervisors in negotiation must be clarified.
6. A determination must be made as to what is negotiable. This means that if there are certain board or administrative prerogatives that are to remain outside the scope of negotiations, they should be identified and the rationale for their exclusion stipulated.
7. The process of negotiation, i.e., the sequential steps of the procedures, must be determined. Provision must be agreed upon for an equitable solution of an impasse in negotiation.
8. It is highly desirable to work out understandings on negotiation with the professional staff before tensions or controversies develop.
9. While the board may engage in negotiation with teachers through the duly recognized organization of their choice, it cannot relinquish its ultimate decision-making authority as may be prescribed by law.

10. Negotiation implies "good faith bargaining," i.e., the board and the recognized teacher organization are obliged to seek reasonable solutions to problems or issues under negotiation in a spirit of "good faith" and "respect."
11. If an agreement is to be signed by the negotiating parties, its duration should be specified and the conditions for subsequent negotiation should be clarified. The procedure for implementing the agreement should be indicated and the individuals or groups responsible for its implementation should be specified.

Role of
Superintendent

The role of the superintendent in negotiation will vary from system to system. His status will be determined in part by his own perceptions of his place in the process. The board itself may be the determiner of his role. In general, the superintendent may perform one of the following roles:

1. As chief administrative officer of the school system he may function as the board's designated representative and engage personally in direct negotiation.
2. He may be a member of an administrative team but not be its chief spokesman.

3. He may serve as liaison between the board and the chief negotiator.
4. He may perform in some variations of these roles.

The following negotiation sequence may prevail:

1. The superintendent and his staff are responsible for engaging in pre-negotiation fact-finding and preparational data-gathering. In this capacity he serves both the board and the teacher organization.
2. The superintendent engages in direct negotiation with the staff within the limits of the delegated authority granted by the board.
3. The superintendent recommends the provisions of the negotiated agreement to the board. The latter holds itself open to hear and react to direct appeals of the teachers organization and acts upon the negotiated recommendations.
4. Provisions are made for an impasse between the board and the teacher organization.

Local conditions will dictate the role the superintendent will assume.

Whatever function he performs should be clearly understood. It is vital that ambiguity be avoided at all costs.

Every effort should be made to avoid placing the superintendent in an untenable position so that as a negotiator, his effectiveness as an educational

leader is destroyed or severely weakened. It is believed that this need not happen if his role in negotiation is properly defined. A superintendent performs many functions in the normal performance of his duties. He is a chief administrator, a public relations specialist, an instructional and curriculum director, a personnel administrator, a business executive, a sponsor of research and development, a budget developer and a financial analyst. He can also be a professional negotiator. His effectiveness does not have to be weakened as he shifts from one role to another so long as he performs each with integrity and skill. Thus, it is believed that performing as a direct negotiator does not have to destroy his overall influence as an educational leader.

I have not attempted to define the role of teachers in negotiation because that is another subject in itself and deserves a fuller treatment than I can give it today.

Observations

In summary, I'd like to make some observations:

1. Education, in many respects, is about where business and industry were twenty or so years ago insofar as negotiation is concerned.

Teachers now, as employees were then, want a larger voice in all

those determinations which affect their salary , working conditions,

and other interests. Boards of education and superintendents find this rising tide of insistence--and militancy in some communities--new, strange, and often uncomfortable. Yet, the desire for negotiation, though unfamiliar, is genuine and it will persist. The problem is how to keep it from being a devisive force and make it a constructive asset.

2. Some boards of education and superintendents have honest reservations about granting meaningful concessions in educational decision-making.

It will take time, careful thought, and a willingness to analyze the validity of long held administrative prerogatives. Yet, there is danger in taking too long to decide whether to formalize negotiation procedures. Time is of the essence.

3. Teachers probably will ask more than boards and superintendents may feel they should have. This is normal. It is part of the negotiation process. It is also a part of the "give and take" of cooperative decision-making.

4. The ultimate recourse, i.e., sanctions, strikes, or some other type of non-work days, is a thorny issue. Boards of education and school administrators are opposed to these techniques of ultimate action because they deny educational service to children. This puts a premium

upon preventing the conditions that prompt sanctions, strikes and work stoppages. But if they cannot be prevented, there must be some way to surmount their consequences. Each party will have to be held responsible for their actions.

5. Grievance procedures, often worked out through negotiation, are essential both to the prevention of problems and to their resolution before they become aggravated situations necessitating drastic action.
6. Professional negotiation, therefore, can be a positive rather than a negative and educationally detrimental process.
7. The labor-management concept of negotiation need not be duplicated in slavish fashion in education. Rather, procedures specifically developed and more appropriate to the educational enterprise itself can be devised by the board, superintendent, and his staff.

The local boards of education, the superintendent, and teachers will do well, however, to recognize that there are nationwide forces which may be beyond their control and which will affect the course of negotiation. The competition between the two national teacher organizations in this country may affect the development of effective negotiation in any local community. What is called for is effective communications, "good faith" and "respect" on the part of board

members, administrators and teachers at the local level. Constructive negotiation may well be a means toward this end.

The art of negotiation, based upon both knowledge and skill, is likely to evolve slowly. Mistakes will occur and corrections will be made. Experience will generate expertise if the parties in negotiation will:

- manifest good faith in the integrity of each other
- hold welfare of the educational enterprise as the prime objective of negotiation
- accept responsibilities in the quest for a greater share of authority
- recognize and respect the give and take nature of the negotiation process
- exercise patience and forbearance as the process proceeds.

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